

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

KRISTEN SLUYSKI, individually and
on behalf of all others similarly situated,

Plaintiff,

v.

AMERICAN GENERAL LIFE
INSURANCE COMPANY,

Defendant.

Civil Action No. 18-10411-PBS

**DEFENDANT’S MOTION TO STRIKE AND MOTION TO DISMISS PLAINTIFF’S
PUTATIVE CLASS ALLEGATIONS**

Now comes Defendant American General Life Insurance Company (“AGLI”) and hereby moves to strike and to dismiss Plaintiff Kristen Sluyski’s (“Plaintiff”) putative class allegations pursuant to Federal Rules of Civil Procedure 12(b)(2), 12(b)(6), 12(f), 23(c)(1)(A), and 23(d)(1)(D). Plaintiff moves to dismiss and strike the class allegations pursuant to Rules 12(b)(2), 12(f), 23(c)(1)(A), and 23(d)(1)(D) on the basis that this Court lacks personal jurisdiction over the class allegations, and exercise of this Court’s jurisdiction over the M.G.L. c. 93A class claims would otherwise violate the United States Constitution.

Plaintiff also moves to dismiss and strike the class allegations in their entirety pursuant to Rules 12(b)(6), 12(f), 23(c)(1)(A), and 23(d)(1)(D) on the bases that the class as pleaded is not ascertainable, and the proposed class constitutes an improper “fail-safe” class that would require individualized liability determinations before class certification. Because these defects are clear from the pleadings, they are appropriate for resolution at this stage. In support of this Motion, AGLI files its supporting memorandum of law and declaration contemporaneously herewith.

WHEREFORE, AGLI respectfully requests that this Court grant its motions to strike and to dismiss Plaintiff's putative class allegations in their entirety, and for any other relief this Court deems just and proper.

Respectfully submitted,

AMERICAN GENERAL LIFE
INSURANCE COMPANY,

By its attorneys,

/s/ Matthew G. Lindenbaum

Matthew G. Lindenbaum (BBO #670007)

Kevin P. Polansky (BBO #667229)

Christine M. Kingston (BBO #682962)

Nelson Mullins Riley & Scarborough LLP

One Post Office Square, 30th Floor

Boston, MA 02109

(t) (617)-217-4700

(f) (617) 217-4710

matthew.lindenbaum@nelsonmullins.com

kevin.polansky@nelsonmullins.com

christine.kingston@nelsonmullins.com

Dated: March 16, 2018

LOCAL RULE 7.1 CERTIFICATION

I, Matthew G. Lindenbaum, hereby certify pursuant to Local Rule 7.1, that on March 15, 2018, I contacted Plaintiff's counsel in an effort to narrow or resolve the issues raised by this Motion to Strike and Dismiss. We were unable to narrow or resolve the issues.

Dated: March 16, 2018

/s/ Matthew G. Lindenbaum

CERTIFICATE OF SERVICE

I, Matthew G. Lindenbaum, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on this date.

Dated: March 16, 2018

/s/ Matthew G. Lindenbaum